

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENNETH JAMES WEST,) Case No.: 1:22-cv-00172-BAK (HBK) (HC)
Petitioner,)
v.) ORDER DENYING MOTIONS FOR
ATTORNEY GENERAL OF THE STATE OF) APPOINTMENT OF COUNSEL
CALIFORNIA,)
Respondent.) (Docs. 2, 8)

Petitioner, a state prisoner, has pending a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. No. 1) that was transferred to this Court on February 10, 2022 (Doc. No. 5). Pending are Petitioner's motion to appoint counsel filed February 7, 2022 (Doc. No. 2) and February 22, 2022 (Doc. No. 8). Petitioner seeks appointment of counsel due to his indigence and lack of legal training. Doc. Nos. 2, 8.

There is no automatic, constitutional right to counsel in federal habeas proceedings. *See Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *Anderson v. Heinze*, 258 F.2d 479, 481 (9th Cir. 1958). The Criminal Justice Act, 18 U.S.C. § 3006A, however, authorizes this court to appoint counsel for a financially eligible person who seeks relief under § 2254 when the “court determines that the interests of justice so require.” *Id.* at § 3006A(a)(2)(B); *see also Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Moreover, the Rules Governing Section 2254 Cases in the United States District Courts require the court to appoint counsel: (1) when the court has authorized discovery upon a

1 showing of good cause and appointment of counsel is necessary for effective discovery; or (2) when
2 the court has determined that an evidentiary hearing is warranted. *Id.* at Rs. 6(a) and 8(c).

3 This case is at the early stages. Respondent has not yet been directed to respond to the
4 Petition. Based upon the record, the court finds Petitioner has not demonstrated that appointment of
5 counsel is necessary at this stage of the proceedings. Provided Petitioner meets the criteria set forth in
6 18 U.S.C. § 3006A, the court will consider appointing counsel to represent Petitioner if the court later
7 finds good cause to permit discovery or if the court decides that an evidentiary hearing is warranted in
8 this matter.

9 Accordingly, it is **ORDERED**:

10 Petitioner's motions for appointment of counsel (Doc. Nos. 2, 8) are **DENIED without**
11 **prejudice.**

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13 Dated: February 23, 2022


14 HELENA M. BARCH-KUCHTA
15 UNITED STATES MAGISTRATE JUDGE

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